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7 Attorneys for Plaintiff
Monster Energy Company

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

12 MONSTER ENERGY COMPANY, a
Delaware corporation,

13 Plaintiff,

14 vs.

15 VITAL PHARMACEUTICALS, INC.
16 d/b/a VPX SPORTS, a Florida
corporation; and JOHN H. OWOC a.k.a.
17 JACK OWOC, an individual,

18 Defendants.

Case No. 5:18-cv-1882

Judge: Hon. Jesus G. Bernal

**DECLARATION OF EMELIE TIRRE
IN SUPPORT OF PLAINTIFF
MONSTER ENERGY COMPANY'S
APPLICATION FOR LEAVE TO
FILE UNDER SEAL PORTIONS OF
EXHIBITS IN SUPPORT OF ITS
MOTION FOR A PRELIMINARY
INJUNCTION**

1 I, Emelie Tirre, declare as follows:

2 1. I am the President of the Americas for Monster Energy Company
3 (“Monster”). I have been working at Monster since July 2010 and have held other
4 roles such as Senior Vice President of Sales, North America, and Chief Commercial
5 Officer. I have worked in the beverage industry for over 26 years.

6 2. I submit this Declaration in support of Monster’s Motion to Seal
7 Portions Exhibits in Support of its Motion for a Preliminary Injunction. I have
8 personal knowledge of the facts set forth in this Declaration and, if called as a
9 witness, could and would testify competently thereto.

10 3. I have reviewed the Exhibits 35, 36, 47, 48, 49, 50, 51, 52, 53, 54, and
11 55 attached to the Declaration of Steven N. Feldman in Support of Monster’s Motion
12 for a Preliminary Injunction (“Feldman Decl.”). The following portions of these
13 exhibits contain Monster’s and its business partners’ sensitive proprietary business
14 information, disclosure of which could result in harm to Monster and third parties:

Exhibit to Feldman Decl.	Portion(s) to be Sealed	Reason
Ex. 35	Parts of Pages 0280 and 0281	<p>The “Funding Elements” and “Cold Equipment Placement Funding” tables on page 0280 contain nonpublic information about the contracted rate and payment between Monster and its partner American Gas & Oil (“AGO”) in 2019. And the first paragraph of the “Miscellaneous Terms and Conditions” section on page 0281 contains detailed information about the negotiated cooperative marketing agreement (“CMA”) funding rate between Monster and AGO.</p> <p>Monster considers this funding and payment information highly confidential and proprietary financial and business strategy information. Release of this sensitive information would allow Monster’s and AGO’s competitors to use that information to negotiate more favorable</p>

1			contracts to the detriment of Monster and AGO.
2	Ex. 36	Page 0283, paragraph 3; Page 0293; Portions of pages 0295 and 0296; Pages 0297-300.	These sections contain information relating to the specific contracted-for products, promotions, and product placement between Monster and its partner BP West Coast Products, LLC ("BP"). This is highly confidential business strategy information of Monster and BP. Release of this sensitive information could harm Monster and BP and benefit competitors by allowing them to decipher Monster's contracted-for promotions and provide insight to Monster's business negotiations with BP.
3	Ex. 36	Page 0284, paragraph 6; Page 0286, paragraph 12; Portions of pages 0295 and 0296.	These sections contain information about contracted-for payments between Monster and BP and other financial-related information. Monster considers this funding, payment, and financial information to be highly confidential financial and business strategy information of Monster and BP. Release of this sensitive business strategy and financial information will harm Monster and BP and benefit their competitors by allowing them to use that information to negotiate more favorable contracts with retail partners.
4	Ex. 47	Pages 0338, section 4; 0348-49; Page 0353; Page 0354	These sections contain information relating to the specific contracted-for pricing and rebate information, particulars of the calculation of space, and shelf life requirements between Monster and its partner Circle K Procurement and Brands Limited ("CK Brands"). This is highly confidential business strategy information of Monster and CK Brands. Release of this sensitive business strategy and financial information will harm Monster and CK Brands and benefit their competitors by allowing them to decipher Monster's contracted-for pricing and rebate information

1			and specific calculations of space in the store.
2	Ex. 47	Pages 0338-39, sections 4-5; Pages 342-43, section 11.2; Page 0352	These sections contain information about contracted-for payments between Monster and CK Brands and other financial-related information. Monster considers this funding, payment, and financial information to be highly confidential financial and business strategy information of Monster and its partner CK Brands. Release of this sensitive business strategy and financial information will harm Monster and CK Brands and benefit their competitors by allowing them to use that information to negotiate more favorable contracts with retail partners.
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11	Ex. 48	Page 0360, section 1.1; Pages 0362-63, section 4	These sections contain information relating to the distribution of products, specific contracted- for discounts, and agreed-upon growth incentives. This is highly confidential business strategy information of Monster and CK Brands. Release of this sensitive business strategy and financial information will harm Monster and CK Brands and benefit their competitors by allowing them to decipher, among other things, Monster's contracted-for discounts and promotions.
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20	Ex. 48	Pages 0362-63, section 4; Pages 0368-69, section 11.2; Pages 0375-76; Pages 0378-82	These sections contain information about pricing information, funding information, specific payment requirements, specific rates for products between Monster and CK Brands and other financial-related information. Monster considers this funding, payment, and financial information to be highly confidential financial and business strategy information of Monster and its partner CK Brands. Release of this sensitive business strategy and financial information will harm Monster and CK Brands and benefit their competitors by allowing them
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1			to use that information to negotiate more favorable contracts with retail partners and price their products to retailers in an advantageous way to Monster's products.
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4	Ex. 49	Portions of Pages 0384 and 0385	These pages contain nonpublic information about financial payment information between Monster and its partner Walmart Global Shared Services North America ("Walmart").
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7			Monster considers this funding and payment information highly confidential financial and business strategy information of Monster and its partner Walmart. Release of this sensitive business strategy and financial information will harm Monster and Walmart and benefit their competitors by allowing them to use that information to negotiate more favorable contracts with retail partners.
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13	Ex. 49	Pages 0386 to 0408	These pages contain Walmart product allocation and space information that it shares with its partners, like Monster. Indeed, Walmart has marked each of the pages "Confidential."
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17			This information represents confidential business information of Walmart and its partner Monster. Release of this sensitive business strategy and financial information will harm Walmart and Monster and benefit their competitors by allowing them to decipher, among other things, Walmart's product allocation and space information, including relating to Monster.
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23	Ex. 50	Parts of Pages 0410 and 0411	The "Funding Elements" and "Cold Equipment Placement Funding" tables on these pages contain nonpublic information about the contracted rate and payment between Monster and its partner Dunne Manning. And the first paragraph of the "Miscellaneous Terms and Conditions" section on page 0411 contains detailed information about the negotiated CMA
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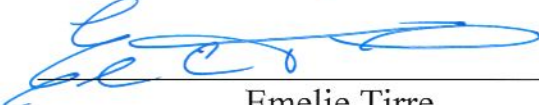
1			funding rate between Monster and Dunne Manning.
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3			Monster considers this funding and payment
4			information highly confidential financial and
5			business strategy information of Monster and
6			its partner Dunne Manning. Release of this
7			sensitive business strategy and financial
8			information will harm Monster and Dunne
9			Manning and benefit their competitors by
10	Ex. 51	Parts of Page 0413	allowing them to use that information to
11			negotiate more favorable contracts with retail
12			partners.
13			The “Funding Elements” table on this page
14			contains nonpublic information about the
15			contracted rate and payment between Monster
16			and its partner Duchess. And the first
17			paragraph of the “Miscellaneous Terms and
18			Conditions” section on this page contains
19			detailed information about the negotiated CMA
20			funding rate between Monster and Duchess.
21			Monster considers this funding and payment
22	Ex. 52	Parts of Pages 0416 and 0417	information highly confidential financial and
23			business strategy information of Monster and
24			its partner Duchess. Release of this sensitive
25			business strategy and financial information will
26			harm Monster and Duchess and benefit their
27			competitors by allowing them to use that
28			information to negotiate more favorable
			contracts with retail partners.
			The “Funding Elements” table on page 0416
			contains nonpublic information about the
			contracted rate and payment between Monster
			and its partner Duchess. And the second
			paragraph of the “Package Authorization
			Requirements” section on page 0417 contains
			detailed information about the negotiated CMA
			funding rate between Monster and Duchess.
			Monster considers this funding and payment

1			information highly confidential financial and
2			business strategy information of Monster and
3			its partner Duchess. Release of this sensitive
4			business strategy and financial information will
5			harm Monster and Duchess and benefit their
6			competitors by allowing them to use that
7			information to negotiate more favorable
8			contracts with retail partners.
9	Ex. 53	Parts of Pages 0419 and 0420	The “Funding Elements” table on page 0419
10			contains nonpublic information about the
11			contracted rate and payment between Monster
12			and its partner Big Red Valero. And the first
13			paragraph of the “Miscellaneous Terms and
14			Conditions” section on page 0420 contains
15			detailed information about the negotiated CMA
16			funding rate between Monster and Big Red
17			Valero.
18			Monster considers this funding and payment
19			information highly confidential financial and
20			business strategy information of Monster and
21			its partner Big Red Valero. Release of this
22			sensitive business strategy and financial
23			information will harm Monster and Big Red
24			Valero and benefit their competitors by
25			allowing them to use that information to
26			negotiate more favorable contracts with retail
27			partners.
28	Ex. 54	Parts of Pages 0422 and 0423	The “Funding Elements” and “Equipment
			Placement Funding” tables on page 0422
			contain nonpublic information about the
			contracted rate and payment between Monster
			and its partner Big Red Valero. And the second
			paragraph of the “Package Authorization
			Requirements” section on page 0423 contains
			detailed information about the negotiated CMA
			funding rate between Monster and Big Red
			Valero.
			Monster considers this funding and payment
			information highly confidential financial and

1			business strategy information of Monster and
2			its partner Big Red Valero. Release of this
3			sensitive business strategy and financial
4			information will harm Monster and Big Red
5			Valero and benefit their competitors by
6			allowing them to use that information to
7			negotiate more favorable contracts with retail
8			partners.
9	Ex. 55	Parts of Pages	The “Funding Elements” table on page 0425
10		0425 and 0426	contains nonpublic information about the
11			contracted rate and payment between Monster
12			and its partner Pit Stop – NY (Marshalls) (“Pit
13			Stop”). And the first paragraph of the
14			“Miscellaneous Terms and Conditions” section
15			on page 0426 contains detailed information
16			about the negotiated CMA funding rate
17			between Monster and Pit Stop.
18			Monster considers this funding and payment
19			information highly confidential financial and
20			business strategy information of Monster and
21			its partner Pit Stop. Release of this sensitive
22			business strategy and financial information will
23			harm Monster and Pit Stop and benefit their
24			competitors by allowing them to use that
25			information to negotiate more favorable
26			contracts with retail partners.
27	Ex. 55	Parts of Page	The “2019 Promotional Calendar” contains
28		0425	detailed nonpublic information about Monster’s
			upcoming promotions in 2019.
			This is highly confidential business strategy
			information of Monster and Pit Stop. Release
			of this sensitive business strategy and financial
			information could benefit their competitors by
			allowing them to decipher, among other things,
			Monster’s promotions ahead of time to then
			develop their own copycat promotions, to the
			detriment of Monster and Pit Stop.

1 I declare under penalty of perjury that the foregoing is true and correct.

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3 Executed on this 10th day of April 2019, at Corona, CA.

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Emelie Tirre